IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11618 of 2004

Between:
Najeebuddin Ghalib, s/o late Shamsuddin Ghalib, R/o 1-7-252 to 254 SD Road, Secunderabad & 19-2-23, Maqbara Ghalib Jung, Misrigunj, Hyderabad.

..... PETITIONER

AND

1 The A.P. State Wakf Board represented by its Chief Executive Officer,
Haj House, Opp:Public Gardens, Nampally Road, Hyderabad.
2 The Chief Commissioner of Land Administration, Andhra Pradesh, Nampally Station Road, Hyderabad-500 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of writ of mandamus declaring the inclusion of premises bearing No.1-7-252 to 254, S.D.Road, Secunderabad as Wakf at Serial No.2587 page 147 of A.P.Gazettee Supplemental Part II dated 9-2-1989 as illegal, arbitrary, malafide, without jurisdiction, null and void; and consequently direct the 1st respondent to delete premises bearing No.1-7-252 to 254 S.D.Road, Secunderabad in the above Gazette Notification

Counsel for the Petitioner: MR.A.SHIREESH

Counsel for the Respondents: MR.A.M.QURESHI

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the Gazette notification, dated 09.02.1989 with reference to the property notified in the said Gazette notification.

2. According to the petitioner, the property which was declared as a Wakf property under the said Gazette notification was contrary to the judgment of the Writ Appeal, passed by this Court apart from the fact that the said Gazette notification was published without giving any notice and opportunity to the petitioner. Therefore, the Gazette notification is liable to be quashed as the declaration of the said property as a Wakf property is illegal as it is the private property of the petitioner.

3. Admittedly, the property has already been declared as a Wakf property under the above referred Gazette notification, though the petitioner is claiming that he has no notice of the said declaration. Therefore, it is always open to the petitioner to initiate appropriate proceedings before the Wakf Tribunal, disputing the fact of declaration of the property as a Wakf property and Section 6 of the Wakf Act, 1995 (for short 'the Act') clearly provides for it. Therefore, especially when a specially constituted Tribunal is there to adjudicate upon such dispute in place of a Civil Court, such issue could not be gone into and adjudicated in a writ petition under Article 226 of Constitution of India.

4. Under the above circumstances, the writ petition is dismissed as not maintainable in view of the effective

remedy available to the petitioner to initiate proceedings before the Wakf Tribunal under the provisions of the Act.

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08.07.2004

VGB

To

1 The Chief Executive Officer, A.P. State Wakf Board.
Haj House, Opp: Public Gardens, Nampally Road, Hyderabad.
2 The Chief Commissioner of Land Administration, Andhra Pradesh,
Nampally Station Road, Hyderabad-500 001.
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